

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Office of Health Policy

3 (Amendment)

4 900 KAR 6:060. Timetable for submission of certificate of need applications.

5 RELATES TO: KRS 216B.015, 216B.040, 216B.095(3)(a)-(f)

6 STATUTORY AUTHORITY: KRS 216B.040(2)(a)1, 216B.062(1), (2)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1 requires the

8 Cabinet for Health and Family Services to administer Kentucky's Certificate of Need

9 Program and to promulgate administrative regulations as necessary for the program.

10 KRS 216B.062(1) and (2) require the cabinet to promulgate administrative regulations to

11 establish timetables and batching groups for applications for certificates of need. This

12 administrative regulation establishes the timetable for submission of application re-

13 quirements necessary for the orderly administration of the Certificate of Need Program.

14 Section 1. Definitions. (1) "Cabinet" is defined by KRS 216B.015(6).

15 (2) "Certificate of Need Newsletter" means the monthly newsletter that is published

16 by the cabinet regarding certificate of need matters and is available on the Certificate of

17 Need Web site at <http://chfs.ky.gov/ohp/con>.

18 (3) "Formal review" means the review of an application for certificate of

19 need which is reviewed within ninety (90) days from the commencement of the review

20 as provided by KRS 216B.062(1) and which is reviewed for compliance with the review

21 criteria set forth at KRS 216B.040 and 900 KAR 6:070.

(4) "Long-term care beds" means nursing home beds, intermediate care beds, ~~[skilled nursing beds,]~~ nursing facility beds, and Alzheimer nursing home beds.

(5) "Nonsubstantive review" is defined by KRS 216B.015(18).

Section 2. Timetable for Submission of an Application for Formal Review. (1) Prior to July 1, 2017, the cabinet's timetable for giving public notice for an application deemed complete for formal review shall be as established in this subsection.

(a) Public notice for an application for organ transplantation, magnetic resonance imaging, megavoltage radiation equipment, cardiac catheterization, open heart surgery, positron emission tomography equipment, a Level I psychiatric residential treatment facility (Level 1 PRTF), a Level II psychiatric residential treatment facility (Level II PRTF), and a new technological development shall be provided in the Certificate of Need Newsletter published on the third Thursday of the following months:

1. January; and

2. July.

(b) Public notice for an application for a residential hospice facility, a hospice service, and a home health agency shall be provided in the Certificate of Need Newsletter published on the third Thursday of the following months:

1. February; and

2. August.

(c) Public notice for an application for a Class I, II, III and VI ground ambulance service and a private duty nursing service shall be provided in the Certificate of Need Newsletter published on the third Thursday of the following months:

1. March; and

2. September.

(d) Public notice for an application for a day health care program shall be provided in the Certificate of Need Newsletter published on the third Thursday of the following months:

1. April; and

2. October.

(e) Public notice for an application for long-term care beds, an acute care hospital including all other State Health Plan covered services to be provided within the proposed acute care hospital, acute care hospital beds, psychiatric hospital beds, special care neonatal beds, comprehensive physical rehabilitation beds, chemical dependency treatment beds, and an ambulatory surgical center~~], and an outpatient health care center]~~ shall be provided in the Certificate of Need Newsletter published on the third Thursday of the following months:

1. May; and

2. November.

(f) Public notice for an application for an intermediate care facility for individuals with an intellectual disability shall be provided in the Certificate of Need Newsletter published on the third Thursday of the following months:

1. June; and

2. December.

(g) A proposal not included in paragraphs (a) through (f) of this subsection shall be placed in the cycle that the cabinet determines to be most appropriate by placing it in the cycle with similar services.

1 (2) After July 1, 2017, the cabinet's timetable for giving public notice for an applica-
2 tion deemed complete for formal review shall be as established in this subsection.

3 (a) Public notice for an application for organ transplantation, magnetic resonance
4 imaging, megavoltage radiation equipment, cardiac catheterization, open heart surgery,
5 positron emission tomography equipment, a Level I psychiatric residential treatment fa-
6 cility (Level I PRTF), a Level II psychiatric residential treatment facility (Level II PRTF),
7 and a new technological development shall be provided in the Certificate of Need News-
8 letter published on the third Thursday of the following months:

9 1. January;

10 2. April;

11 3. July; and

12 4. October.

13 (b) Public notice for an application for long-term care beds, intermediate care beds
14 for individuals with an intellectual disability, a residential hospice facility, a hospice ser-
15 vice, a private duty nursing service, and a home health agency shall be provided in the
16 Certificate of Need Newsletter published on the third Thursday of the following months:

17 1. February;

18 2. May;

19 3. August; and

20 4. November.

21 (c) Public notice for an application for an acute care hospital including all other State
22 Health Plan covered services to be provided within the proposed acute care hospital,
23 acute care hospital beds, psychiatric hospital beds, special care neonatal beds, com-

1 prehensive physical rehabilitation beds, chemical dependency treatment beds, an am-
2 bulatory surgical center, and a Class I, II, III and VI ground ambulance service shall be
3 provided in the Certificate of Need Newsletter published on the third Thursday of the fol-
4 lowing months:

5 1. March;

6 2. June;

7 3. September; and

8 4. December.

9 (d) A proposal not included in paragraphs (a) through (c) of this subsection shall be
10 placed in the cycle that the cabinet determines to be most appropriate by placing it in
11 the cycle with similar services.

12 (3) An application for formal review shall be filed with the cabinet at least fifty (50)
13 calendar days, but not more than eighty (80) calendar days, prior to the date of the de-
14 sired public notice. An initial application filed more than eighty (80) days prior to the de-
15 sired public notice shall be returned to the applicant along with the fee submitted pursu-
16 ant to 900 KAR 6:020.

17 Section 3. Timetable for Submission of an Application for Nonsubstantive Review.

18 (1) The cabinet shall give public notice for an application deemed complete and granted
19 nonsubstantive review status pursuant to KRS 216B.095(3)(a) through (f) in the Certifi-
20 cate of Need Newsletter published on the third Thursday of each month.

21 (2) An application for nonsubstantive review shall be filed with the cabinet at least
22 fifty (50) calendar days prior to the date of the desired public notice.

900 KAR 6:060

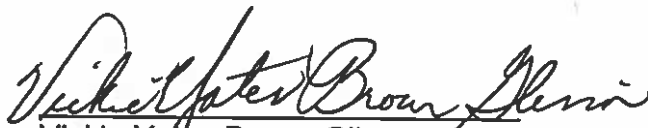
REVIEWED:



Paul A. Coomes, Ph.D.
Executive Director
Office of Health Policy

10/27/16
Date

APPROVED:



Vickie Yates Brown Glisson
Secretary
Cabinet for Health and Family Services

12/7/16
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on January 23, 2017 at 9:00 a.m. in Auditorium A, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by January 13, 2017, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation through January 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40601, phone 502-564-7905, fax: 502-564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 900 KAR 6:060

Contact Persons: Diona Mullins, Office of Health Policy, phone (502)564-9592, email Diona.mullins@ky.gov; Tricia Orme, Office of Legal Services, phone (502) 564-7905, email Tricia.orme@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements necessary for the orderly submission of certificate of need applications.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statutes KRS 216B.040(2)(a)1 and 216B.062(1), (2).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the timetable for submissions of certificate of need applications.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the timetable for submission of certificate of need applications. The proposed revision will allow public notice for formal review applications to be given quarterly instead of semi-annually.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: After July 1, 2017, public notice for formal review certificate of need applications shall be given quarterly in the published Certificate of Need Newsletter. These applications will no longer be required to be batched semi-annually for review purposes.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to simplify the certificate of need process and reduce the time between formal review batching cycles. Formal review applications will now be batched quarterly instead of semi-annually.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation establishes the requirements necessary for the orderly submission of certificate of need applications.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the requirements necessary for the orderly administration of the certificate of need process, including the timetable for submission of certificate of need applications.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Annually approximately 150 certificate of need applications are submitted.

(4) Provide an analysis of how the entities identified in question (3) will be impacted

by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: After July 1, 2017, public notice for formal review certificate of need applications shall be given quarterly in the published Certificate of Need Newsletter instead of semi-annually. These applications will continue to be batched with the same or similar types of services for review purposes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to CON applicants to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public notice for formal review certificate of need applications shall be given quarterly in the published Certificate of Need Newsletter instead of semi-annually. These applications will continue to be batched with the same or similar types of services for review purposes in accordance with KRS 216B.062.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No cost

(b) On a continuing basis: No cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary since there is no cost to implementing this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees and does not directly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 900 KAR 6:060

Contact Persons: Diona Mullins, Office of Health Policy, phone (502) 564-9592, email Diona.mullins@ky.gov; Tricia Orme, Office of Legal Services, phone (502) 564-7905, email tricia.orme@ky.gov.

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Health care facilities owned by the state, county or city shall be permitted to file formal review applications quarterly instead of semi-annually.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The authorizing statutes are KRS 216B.040(2)(a)1 and 216B.062(1), (2).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate additional revenue for state or local government during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate additional revenue for state or local government during subsequent years.

(c) How much will it cost to administer this program for the first year? No additional costs are necessary to administer this program during the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs are necessary to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: